

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DERRICK JAROD HARRIS,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:09-CV-820-TMH
)	[WO]
)	
DANNY STROUD,)	
)	
Defendant.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Derrick Jarod Harris [“Harris”], a county inmate, filed this 42 U.S.C. § 1983 action on August 28, 2009. In this complaint, Harris challenges actions taken against him during his arrest on July 19, 2009. The order of procedure entered in this case required Harris to immediately inform the court of any change in his address. *Order of September 14, 2009 - Court Document No. 8* at 4. On October 22, 2009, this court issued an order, a copy of which the Clerk mailed to Harris. The postal service returned this order because Harris no longer resides at the last address he provided for service.

In light of the foregoing, the court entered an order requiring that on or before November 9, 2009 Harris set forth cause why this case should not be dismissed for his failure to comply with the orders of this court and his failure to adequately prosecute this action. *Order of November 3, 2009 - Court Doc. No. 12*. The court specifically cautioned Harris that failure to comply with the directives of this order would result in a

recommendation that this case be dismissed. *Id.* As of the present date, Harris has filed nothing in response to this order. The court therefore concludes that this case is due to be dismissed.

CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for failure of the plaintiff to properly prosecute this action and his failure to comply with the orders of this court. It is further

ORDERED that on or before November 30, 2009 the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981,

en banc), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 16th day of November, 2009.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE